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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re
JOSE JUAN ROCHA,
Debtor(s).

JOSE JUAN ROCHA,
Plaintiff(s),

vs.

THE BANK OF NEW YORK MELLON fka
The Bank of New York, as successor Trustee
To JPMorgan Chase Bank, N.A., as Trustee on
behalf of the Certificateholders of the CWHEQ
Inc., CWHEQ Revolving Home Equity Loan
Trust, Series 2006-B,
Defendant.

Case No. 2:14-bk-17829-VZ

CHAPTER 13

**STIPULATION RESOLVING DEBTOR'S
COMPLAINT TO DETERMINE THE
VALIDITY OF LIEN ON REAL ESTATE**

Adversary No. 2:14-ap-01249-VZ

Hearing:

Date: 6/26/2014

Time: 10:00 AM

Place: U.S. Bankruptcy Court
255 E Temple St,
Courtroom 1368
Los Angeles, California

This Stipulation is entered into by and between Jose Juan Rocha (hereinafter referred to
as "Debtor"), by and through their attorney of record, Michael R. Totaro; and Defendant BANK

1 OF AMERICA, N.A. as a servicing agent on behalf of The Bank of New York Mellon fka The
2 Bank of New York, as Trustee for the Certificateholders of CWABS, Inc., Asset-Backed
3 Certificates, Series 2006-8 (hereinafter referred to as "Creditor"), by and through its attorney of
4 record, Prober and Raphael, A Law Corporation.

5
6 **RECITALS**

7 Debtor is the maker of a Note in favor of Creditor, dated January 19, 2006 in the original
8 principal amount of \$82,600.00 ("Note"), which is secured by a Deed of Trust encumbering the
9 real property at **6778 Kings Branch Drive South, Mobile, Alabama 36618** (the "Subject
10 Property"). The Note and Second Deed of Trust are collectively referred to hereinafter as the
11 "Subject Loan".

12
13 A. On or about April 23, 2014, Debtor filed a voluntary petition under Chapter 13 of the
14 Bankruptcy Code in the United States Bankruptcy Court for the Central District of California
15 (Los Angeles), and was assigned Case No. 2:14-bk-17829-VZ.

16 B. On or about April 28, 2014, Debtor filed a Complaint To Determine The Validity Of
17 Lien On Real Estate (Lien) of The Bank of New York Mellon fka The Bank of New York, as
18 Trustee for the Certificateholders of CWABS, Inc., Asset-Backed Certificates, Series 2006-8 against
19 Creditor, praying that the court find Creditor's Deed of Trust encumbering the Subject Property
20 be avoided and that its claim be paid as an unsecured.
21

22 **THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:**

- 23 1. Creditor's claim shall be allowed as a non-priority general unsecured claim and shall be
24 paid as such in accordance with the Debtors' Chapter 13 Plan;
25
26 2. The avoidance and release of Creditor's Second Deed of Trust is contingent upon
27 the Debtors' completion of their Chapter 13 plan and the Debtors' receipt of a Chapter 13
28

1 discharge;

2 3. Upon receipt of the Debtor's Chapter 13 discharge and completion of their Chapter 13
3 Plan, the Order avoiding lien may be requested and obtained by Debtor from the Bankruptcy
4 Court without further notice and recorded at the County Recorder's Office.

5 4. Creditor shall retain its lien for the full amount due under the Subject Loan should the
6 Subject Property be sold or should a refinance take place prior to the Chapter 13 Plan
7 completion and entry of a Chapter 13 Discharge.

8 5. Creditor shall retain its lien for the full amount due under the Subject Loan in the event
9 of either the dismissal of the Debtors' Chapter 13 case or the conversion of the Debtors' Chapter
10 13 case to any other Chapter under the United States Bankruptcy Code; and

11 6. In the event that the property is destroyed or damaged, pursuant to the mortgage, Creditor
12 is entitled to its full rights as a loss payee with respect to the insurance proceeds and has a
13 security interest in such proceeds up to the entire balance due on the mortgage.

14 7. Each party shall bear their own attorneys' fees and costs incurred in the present case and
15 adversary case number 2:14-ap-01249-VZ.

16 IT IS SO STIPULATED:

17 DATED: 6/2/14

18 PROBER & RAPHAEL, A LAW CORPORATION

19 By Melissa Vermillion
20 MELISSA VERMILLION, ESQUIRE #241354
21 Attorneys for Defendant

22 DATED: 6-3-14

23 By Michael R. Totaro
24 MICHAEL R. TOTARO, Esquire #*
25 Attorney for Debtors

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Prober & Raphael, A Law Corporation, 20750 Ventura Boulevard, Suite 100, Woodland Hills, CA 91364

A true and correct copy of the foregoing document entitled (*specify*): STIPULATION RESOLVING DEBTOR'S COMPLAINT TO DETERMINE THE VALIDITY OF LIEN ON REAL ESTATE will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On 5/21/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Nancy K Curry (TR) ecfnc@trustee13.com
Michael R Totaro tsecpacer@aol.com, G3899@notify.cincompass.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On 6/11/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

*

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL
(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/11/2014

Tina Gaboyan

/s/ Tina Gaboyan

Date

Printed Name

Signature

2: **SERVED BY U.S. MAIL**

Honorable Vincent P. Zurzolo
U.S. Bankruptcy Court
255 E. Temple St. Suite 1360
Los Angeles, CA 90012
Judge's Copy

Jose Juan Rocha
1854 Morrison St
Pomona, CA 91766-5165

Michael R Totaro
Totaro & Shanahan
POB 789
Pacific Palisades, CA 90272

Nancy K Curry (TR)
700 S Flower Street, Suite 1215
Los Angeles, CA 90017